

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **DISTRICT OF NEVADA**

3 CHARLOTTE MARIE HODGES,

Case No.: 2:20-cv-00893-APG-DJA

4                   Petitioner

**Order**

5 v.

6 DWIGHT NEVEN, et al.,

7                   Respondents

8  
9           Petitioner Charlotte Marie Hodges has submitted a *pro se* petition for writ of habeas  
10 corpus under 28 U.S.C. § 2254. ECF No. 1-1. I dismiss the petition without prejudice as  
11 unexhausted.

12           A federal court will not grant a state prisoner's petition for habeas relief until the prisoner  
13 has exhausted all available state remedies for all claims raised. *Rose v. Lundy*, 455 U.S. 509  
14 (1982); 28 U.S.C. § 2254(b). A petitioner must give the state courts a fair opportunity to act on  
15 each of the claims before she presents those claims in a federal habeas petition. *O'Sullivan v.*  
16 *Boerckel*, 526 U.S. 838, 844 (1999); *see also Duncan v. Henry*, 513 U.S. 364, 365 (1995). A  
17 claim remains unexhausted until the petitioner has given the highest available state court the  
18 opportunity to consider the claim through direct appeal or state collateral review proceedings.  
19 *See Casey v. Moore*, 386 F.3d 896, 916 (9th Cir. 2004); *Garrison v. McCarthey*, 653 F.2d 374,  
20 376 (9th Cir. 1981).

21           Here, Hodges states that she filed a state postconviction habeas corpus petition in October  
22 2019 and that the petition is pending in state court. Thus, she has not yet exhausted her state-  
23

1 court remedies. Further, the decision on her state petition could render this action moot.

2 Accordingly, I dismiss this federal petition without prejudice.

3 I THEREFORE ORDER the Clerk to detach and file the petition (ECF No. 1-1).

4 I FURTHER ORDER that the petition is **DISMISSED** without prejudice.

5 I FURTHER ORDER that a certificate of appealability is DENIED.

6 I FURTHER ORDER that the petitioner's motion for appointment of counsel and  
7 amended motion for appointment of counsel (**ECF Nos. 3 and 5**) **are both DENIED** as moot.

8 I FURTHER ORDER the Clerk to send petitioner one copy of the filing at ECF No. 1-1.

9 I FURTHER ORDER the Clerk to enter judgment accordingly and close this case.

10 Dated: September 24, 2020

11 

12  
13 U.S. District Judge Andrew P. Gordon  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23